

June 4, 2008
PROPOSAL FOR DEVELOPMENT STANDARDS
For the Helena Valley Planning Area in
Lewis & Clark County, Montana

PREFACE

This proposal arises from the May and June, 2007 listening sessions and public meetings in April, 2008 held throughout the Helena Valley by the "development standards working group," a unofficial group that has been meeting since November 2004 including representatives of the Montana Smart Growth Coalition, Helena Association of Realtors until June 2007, Plan Helena, Helena Building Industry Association, a representative of the Consolidated City/County Planning Board, a conservation realtor, a former county planning director, a northeast valley resident and former planning board chair, and residents of the City of Helena and Lewis & Clark County including input from engineers, planners, builders, public health officials, ground water hydrologists, and others. This proposal also implements the current Lewis and Clark County growth policy. The intent is to provide underlying planning-area-wide development standards and a "menu" of zoning options to serve as the basis for community discussions for "neighborhood planning" within logical sub-areas of the Helena Valley Planning Area.

This proposal is conceptual in nature and some necessary elements are missing such as definitions of key terms. The county planning staff and city/county planning board will be responsible for filling in these details. We will continue to revise our proposal as dialogue with county residents, the planning board and others continues. We assume that these development standards will be implemented through a county development permit system as contemplated in the growth policy.

We recommend that the Board of County Commissioners, planning board, and planning staff develop these concepts into a zoning ordinance with tentative zoning designations and boundaries. The planning board and staff should then establish a process to work with county residents and landowners to adapt these provisions and boundaries to better meet the specific needs and desires of those citizens in the planning area described below. In that way, the people of that area will have a clear framework to begin the process and a voice in how future growth will affect them and their property. Absent such a process, the majority of residents will have no voice in how their community develops.

PURPOSE

The purpose of this proposal is to protect the public health, safety, general

welfare, and morals; to facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, and other public requirements; to protect and define the rights and responsibilities of property owners; to encourage the most appropriate use of land; to promote a common understanding of how a given area will develop; and to maintain and improve the desirable quality of life in this county, all in accordance with and implementing the Lewis & Clark County Growth Policy.

GEOGRAPHIC SCOPE

The geographic scope of this proposal includes the following “planning areas” in southern Lewis & Clark County as defined in the growth policy: the Helena Valley Planning Area.

Excepted from this proposal are:

- 1- the City of Helena; and
- 2- an area extending one mile from the city limits of East Helena if the City of East Helena chooses to extend its own zoning authority to that area, referred to herein as the “East Helena extraterritorial area.” (We recommend that the County apply the Urban Standards provisions there, but incorporating the City of East Helena’s standards, rather than Helena’s, until such time as East Helena adopts zoning for this area.)

These areas are referred to collectively herein as “the planning area.”

APPLICABILITY

- a. These regulations apply to any new development, construction, or other building activity or new use, unless an application for a permit for such activity has been deemed complete and sufficient at the time these standards become effective, or a building activity not requiring any permit is lawfully under way.
- b. These regulations apply to any change of use if the change requires a new wastewater permit from the Board of Health.
- c. These regulations do not apply to any legal non-conforming uses in existence at the time these regulations become effective. Any non-conforming structure lawfully in existence at the time these regulations become effective which is destroyed by any cause beyond the control of the owner may be replaced on the same footprint.
- d. Within a period of 3 years from the date these regulations become effective (the grace period), the owner of any non-conforming structure lawfully existing on the date these regulations become effective must receive a permit, subject to appropriate conditions, to expand the footprint of the structure in any manner which does not significantly increase non-conformity with the purposes of general

development standards 6 (water body setbacks and buffers), 8 (100 year flood plains), or 7 (wildfire hazard areas). During this grace period, any expansion of the footprint of a structure which conforms to the following requirements does not significantly increase non-conformity with these standards:

1. If located entirely or partially within the water body setback or buffer, the expansion must not cause the structure to be located closer to ordinary high water mark of the water body than the existing structure and any disturbance within the vegetative buffer must be avoided or minimized.
2. If located entirely or partially within the 100-year flood plain, the expansion must not cause the structure to be located closer to the ordinary high watermark than the existing structure and the owner must obtain a flood plain permit before beginning construction.
3. If located entirely or partially within an area designated as moderate, high, or high to severe on the fuel/fire hazard map, fuels must be mitigated prior to construction in accordance with a plan for fuel reduction, defensible/survivable space, and construction prepared in accordance with the standards of Appendix III which should be prepared by County staff.
4. Any increase of the footprint of a non-conforming legal structure for which a permit has been obtained during the grace period must be built within 5 years from the date that these regulations become effective. After that date, the grace period expires and the permit is null and void.
5. After the grace period expires, no increase of the footprint of a legal existing non-conforming structure is permitted without first receiving a variance.

e. These regulations may not eliminate the ability to develop either lots that have received preliminary plat approval before the date these regulations become effective, or tracts of record in existence before the date these regulations become effective.

DEVELOPMENT STANDARDS

This proposal includes 10 different zoning designations. Each zoning designation has different density standards, different permitted uses and may have different development standards, and is intended to fit the very different conditions within the planning area. Any use not explicitly permitted or conditionally permitted under these regulations is not permitted without a variance or a zoning amendment. See Appendix I for the land use table and definitions.

The following General Development Standards and Conservation Development Standards would apply across the entire planning area.

General Development Standards

1. Prior to any construction or installation of new, pre-fabricated, or modular

structures or remodeling of existing structures where any additions exceed fifty percent of the floor area of the existing structures, a development permit must be obtained from the county planning department. The development permit includes compliance with all applicable county regulations such as address assignment, wastewater permit, and approach permit.

2. Mixing zones for discharge of wastewater from individual septic systems must be confined within the boundaries of the parcel served by that system or within a recorded easement for that purpose. Parcels existing on the effective date of these regulations, but smaller than specified under the applicable zoning designation, which were approved under Title 76, Ch. 4, MCA (sanitation in subdivisions), are exempt from this standard. On a tract of record or on parcels that have received preliminary plat approval or are part of a complete and sufficient subdivision application in existence at the time these regulations become effective, this standard only applies where space permits mixing zones to be confined within the boundaries of the parcel.

3. Well isolation zones or zones of influence must be confined within the boundaries of the parcel served by the well or within a recorded easement for that purpose. On a tract of record or on parcels that have received preliminary plat approval or are part of a complete and sufficient subdivision application in existence at the time these regulations become effective, this standard only applies where space permits well isolation zones to be confined within the boundaries of the parcel.

4. Mixing zones for discharge of wastewater from community wastewater disposal systems must be confined on property which is owned or controlled by the owner of the system or within a recorded easement for that purpose. On a tract of record or on parcels that have received preliminary plat approval or are part of a complete and sufficient subdivision application in existence at the time these regulations become effective, this standard only applies where space permits mixing zones to be confined within the boundaries of the parcel.

5. Mixing zones may extend under public roads or beneath lands from which development rights have been permanently removed and where development of domestic water wells has been legally precluded.

6. New construction must comply with waterbody setbacks and buffer standards set forth in the current County Subdivision Regulations and found in Appendix II of these regulations.

7. In areas designated high or high to severe on the Fuel/Fire Hazard Map, building sites are prohibited on slopes of 30% or steeper, and within ravines or other topographical features which constitute "fire chimneys," and within 150 feet of the apex of "fire chimneys". Fire Chimneys are topographical features, usually a natural drainage way, which tend to concentrate fire toward the top of steep

slopes. Fire Chimneys are generally less than ½ mile in length, have slopes of 20% or steeper, are less than 600 feet wide, and are at least 120 feet deep as measured from the bottom of the ravine to the crest of either adjacent ridge or slope.

In areas designated as moderate, high, and high and severe on the Fuel/Fire Hazard Map, fuels must be mitigated prior to the construction of structures in accordance with a plan for fuel reduction, defensible/survivable space, and construction prepared in accordance with standards found in Appendix III which should be prepared by County staff.

8. New structures are prohibited in designated 100 year floodways. New structures are prohibited in designated 100 year floodplains unless the structures are located on a tract of record in existence at the time these regulations become effective, in which case a floodplain permit must be obtained prior to development of such tracts of record located within the 100 year floodplain. Structures do not include roads constructed on or below grade, or sewer, water, or utilities lines.

9. Developments outside of designated Urban Service Areas and Community Centers must locate structures not less than 200 feet away from critical or important wildlife habitat or travel corridors identified in the Growth Policy.

10. Developments will remain part of an existing fire service area or fire district unless the development is annexed by a municipality.

11. Unless otherwise allowed by these regulations, commercial developments with more than 60,000 square feet of gross commercial floor space are only permitted within Urban Standards Areas, or within Commercial/Professional/Business Zones.

12. Whenever physically feasible, all streets must connect to existing or projected through-streets as part of an interconnected street network inside and outside of the development in accordance with any county transportation plans including provisions for pedestrians and bicyclists. The county should work with local residents to plan a network of arterial and collector streets.

13. Zoning will not affect public land management or public lands as long as the lands remain public.

14. Sexually oriented businesses are prohibited except as conditionally permitted under these regulations and in no case are they permitted within 1,500 feet of schools, permitted day care facilities, hospitals, public parks, or places of worship.

15. Single-family residential use includes home occupations which are permitted as an accessory use in all districts. The purpose of these home occupation standards is to protect neighbors and neighboring properties. A home occupation is any business conducted on the property that is clearly incidental and secondary to the use of the dwelling for residential purposes and must comply with the provisions of this part.

- a) Agricultural activities are not home occupations and are exempt from home occupation requirements.
- b) A home occupation conducted within the dwelling must not involve more than one-half of the total floor area of the dwelling.
- c) A home occupation must not generate more than an average of twenty (20) additional vehicle trips per day on a weekly basis, including deliveries.
- d) A home occupation must not involve more than two full-time equivalent employees, who do not live in the residence, working on-site.
- e) The home occupation must not create noticeable glare, noise, odor, vibration, smoke, dust, or heat at or beyond the property lines.
- f) Off-street parking must be provided for any parking generated by the home occupation.
- g) Business deliveries and customers or clients are only allowed on the property between the hours of 6 AM and 9 PM.

Permitted Uses in all zones

- 1) Single-family dwellings and accessory uses, except in Industrial Use Zones where they are only permitted as a conditional uses.
- 2) Agricultural/horticultural/silvicultural uses.
- 3) Child care and adult care facilities not to exceed 13 children or adults.
- 4) Religious facilities and associated uses and residences not to exceed a capacity of 250 participants.
- 5) Home occupations.
- 6) Trails, parks, and open space.
- 7) Storage or shop buildings not to exceed 5,000 square feet for occupations conducted primarily off of the premises (e.g., building trades).
- 8) Legal pre-existing, non-conforming uses.

Conditional Uses in all zones

- 1) Accessory dwelling units.
- 2) Home occupations with more than two full-time equivalent employees, who do not live in the residence, working on-site

Conservation Development Incentives and Standards

The purpose of these voluntary conservation development standards is to work in concert with the density zoning to preserve quality of life and to enhance property values in rural areas of the County by creating incentives for the conservation of open lands.

For example: Say Clark owns 10 acres in Zone ARR-10. Under this Zoning designation, Clark could build one house on his 10 acre parcel. Across the road from Clark, Dubois owns 160 acres. Under the Conservation Development standards, Clark could purchase a perpetual conservation easement on 8 or more of Dubois 160 acres (75% or more of Clark's 10 acres), donate the easement to a land trust, and develop 3 residential lots on his 10 acres (200% more). Dubois could continue to graze cattle and grow crops on all of his 160 acres and Clark could sell his lots for more money because the buyers would know that at least 8 acres of that field across the road would always remain open land.

Conservation Development Standards

1. A developer who, within the previous 12 months or within 2 years after receiving preliminary plat approval, has caused land which is considered appropriate for conservation purposes or as open space, consistent with the Goals and Objectives of on the Comprehensive Parks, Recreation, and Open Space Plan or the County Growth Policy, to be placed under a perpetual conservation easement. These density bonuses allow the developer to create:
 - (a) 100% more units/lots than allowed under the zoning where the development is located if 50% to 75% of the total area of the property to be developed or an equivalent amount of land on other property or properties has been placed in a perpetual conservation easement;
 - (b) 200% more units/lots than allowed under the zoning where the development is located if 76% or more of the total area of the property to be developed or an equivalent amount of land on other property or properties has been placed in a perpetual conservation easement.
2. Lands designated as open lands for a conservation development can be owned by anyone provided they are subject to a perpetual conservation easement as provided below and need not be open to public use. Open lands may be used for agriculture, livestock, ranching or other purposes consistent with the terms of the conservation easement.
3. Lands designated as open lands must be permanently protected from development by an irrevocable conservation easement, granted in perpetuity. The county should define what uses are prohibited on open lands.
4. The proposed development must cluster structures together to conserve open lands.
5. To the greatest extent practicable, open lands must adjoin neighboring open lands and give priority to protecting the most important agricultural lands, wildlife habitat, and wildlife corridors.

6. Protected open lands must equal not less than 50% of the total area of the property to be developed.
 7. Multiple adjacent tracts of record may be aggregated to create a single parcel for the purpose of creating a conservation development.
 8. The minimum size for parcels using individual septic systems is as determined under Tit. 76, Ch. 4, MCA. There is no minimum size for parcels using a community wastewater system.
 9. The development must comply with all applicable zoning, subdivision, and building code regulations and state laws.
 10. Open space may contain dedicated parkland, wildlife, river, and stream buffers, and one-third of open land may be used for community water, community wastewater systems, or donated to other public facilities including schools, fire, or police/sheriff stations if those facilities are included in the growth policy and both the County and the public entities that will be responsibility for the facilities agree to the donation and location of the donated property.
9. Conservation easements or other removal of development rights in perpetuity on any open lands consistent with the Goals and Objectives of on the Comprehensive Parks, Recreation, and Open Space Plan or the County Growth Policy may be counted as open land for a conservation development even if the open land conserved is owned by another person. In order for open lands to be considered to be part of a conservation development under this provision, those lands must have been:
- a) protected within 12 months prior to the submission of the completed conservation development's subdivision application or within 2 years after receiving preliminary plat approval as a direct result of the proposed conservation development; and
 - b) identified for conservation or as open space consistent with the Goals and Objectives of on the Comprehensive Parks, Recreation, and Open Space Plan or the County Growth Policy.

ZONING DESIGNATIONS

The list of permitted and conditional uses for each zoning designation can be found in Appendix I.

CC: Community Center (CC)

Intent/Explanation

The intent is to establish or preserve community centers in the rural environment, which provide valuable commercial, educational and emergency services, and

higher residential densities served by or intended to be served by centralized wastewater and water systems.

1. For developments using community or public water and sewer systems, development at urban densities is allowed.
2. For developments using individual septic systems, lots must be restricted to require owners to abide by county-approved building “envelopes” (the designated portion of the lot where structures may be built) that would allow future subdivision or future development to a density not less than 4 units per acre.
3. Lots must be restricted to include a waiver of the right to protest municipal annexation, connection to public sewer and water, and the creation of special improvement districts and/or rural improvement districts in the future.
4. Unless neighborhood commercial areas are designated in a neighborhood plan and any new commercial development is in accordance with that plan, commercial development must be clustered around the intersections of arterial or major collector streets or roads in a compact commercial district with adequate provisions to facilitate pedestrian traffic throughout the district. The boundary of the commercial district should be set at a street or road 660 - 800 feet from the arterial or major collector intersection.
5. Commercial developments must provide sidewalks along all arterial and major collector streets.
6. Commercial buildings must have entrances fronting on sidewalks.
7. Commercial developments must provide sidewalks which connect entrances to any adjoining or adjacent commercial developments fronting on the same street, to parking areas, and to the street.

Lot and Bulk Requirements

- 1) Buildings must be setback a minimum of 10 feet from all public rights-of-way and 8 feet from side and rear property lines. Corner lot setback - Buildings must be setback a minimum of 10 feet from all public right-of-ways on both of the sides facing streets.
- 2) Maximum building height is 40 feet (agricultural structures and religious facilities are exempt from height requirement).

RT: Residential/Transitional (RT)

Intent/Explanation

This designation is appropriate where a majority of landowners appear to prefer residential uses on individual well and septic. These zoning regulations are intended to help maintain the safety and health of residents, and conserve the

natural resource values of the area.

Density

- 1) Development is limited to one dwelling per lot with the minimum lot size determined by compliance with the General Development Standards of these regulations; or,
- 2) Development is limited to one dwelling per lot with the minimum lot size determined by DEQ. For example, the development may use a multi-user or community wastewater system, or request a source specific mixing zone from DEQ in order to be approved for higher densities. Development must comply with the General Development Standards.

Lot and Bulk Requirements

- 1) Buildings must be setback a minimum of 20 feet from all public rights-of-way and 8 feet from side and rear property lines. Corner lot setback - Buildings must be setback a minimum of 20 feet from all public right-of-ways on both of the sides facing streets.
- 2) Maximum building height is 40 feet (agricultural structures and religious facilities are exempt from height requirement).

RR-5: Rural Residential 5 (RR-5)

Intent/Explanation

This designation is appropriate where a majority of landowners appear to prefer the existing rural character of the zone by providing for low-density residential uses, while protecting water quality and quantity in the region. These zoning regulations are intended to help maintain the safety and health of residents, and conserve the natural resource values of the area.

Density

- 1) Developments may not exceed an average density of one unit per 5 acres, however higher densities on portions of a parcel proposed for subdivision are allowed under Conservation Development Standards.

Lot and Bulk Requirements

- 1) Buildings must be setback a minimum of 20 feet from all public rights-of-way and 15 feet from side and rear property lines.
- 2) Maximum building height is 40 feet (agricultural structures and religious facilities are exempt from height requirement).

ARR-10: Agriculture and Rural Residential 10 (ARR-10)

Intent/Explanation

This designation is appropriate where a majority of landowners appear to prefer the existing rural character of the zone by providing for agriculture and large-lot residential uses, while helping maintain the safety and health of residents, and

the natural resource values of the area.

Requirements for this zone are designed to reflect the existing characteristics of the area, while still allowing opportunities for additional development.

Density

- 1) Developments may not exceed an average density of one unit per 10 acres, however higher densities on portions of a parcel proposed for subdivision are allowed under Conservation Development Standards.

Lot and Bulk Requirements

- 1) Buildings must be setback a minimum of 20 feet from public rights-of-way and 15 feet from all side and rear property lines.
- 2) Maximum building height is 40 feet (agricultural structures and religious facilities are exempt from height requirement).

ARR-20: Agriculture and Rural Residential 20 (ARR-20)

Intent/Explanation

This designation is appropriate where a majority of landowners appear prefer the existing rural character of the zone by providing for agriculture, silvaculture, and large-lot residential uses, while maintaining the safety and health of residents, and the natural resource values of the area. Requirements for this zone are designed to reflect constraints imposed by the natural environment, as well as infrastructure limitations. This zoning designation may be suitable for forested areas, which may have a high to severe wildfire risk rating, which may be compounded by the poor condition of local roads and steep slopes. Emergency service responders may have slower than average response times, due to road conditions, inclement weather, and longer travel distances.

Density

- 1) Developments may not exceed an average density of one unit per 20 acres, however higher densities on portions of a parcel proposed for subdivision are allowed under Conservation Development Standards.

Lot and Bulk Requirements

- 1) Buildings must be setback a minimum of 20 feet from all public rights-of-way and 15 feet from side and rear property lines.
- 2) Maximum building height is 50 feet (agricultural structures and religious facilities are exempt from height requirement).

ARU-40: Rural (1 unit per 40 acres average density)

Intent/Explanation

This designation is appropriate where a majority of landowners appear to prefer the rural, agricultural character of their area or where a high fire hazard rating (as

indicated on the county fire hazard map) make higher densities unsafe or unduly expensive to protect from wild fire. This designation may also be appropriate for areas which have inadequate roads to support higher densities or are too remote to cost-effectively and adequately provide other necessary public services to larger populations.

Density

- 1) Developments may not exceed an average density of one unit per 40 acres, however higher densities on portions of a parcel proposed for subdivision are allowed under Conservation Development Standards.

Lot and Bulk Requirements

- 1) Buildings must be setback a minimum of 40 feet from all property lines or public rights-of-way, whichever is closest.
- 2) Maximum building height is 50 feet (agricultural structures and places of worship are exempt from height requirement).

AR-160: Resource (1 unit per 160 acres average density)

Intent/Explanation

This designation is appropriate where a majority of landowners prefer to retain the agricultural character of their area or where a high fire hazard rating (as indicated on the county fire hazard map) make higher densities unsafe or unduly expensive to protect from wild fire. This designation may also be appropriate for areas which have inadequate roads to support higher densities or are too remote to cost-effectively and adequately provide other necessary public services to larger populations.

Density

- 1) Developments may not exceed an average density of one unit per 160 acres, however higher densities on portions of a parcel proposed for subdivision are allowed under Conservation Development Standards.

Lot and Bulk Requirements

- 1) Buildings must be setback a minimum of 40 feet from all property lines or public rights-of-way, whichever is closest.
- 2) Maximum building height is 50 feet (agricultural structures and places of worship are exempt from height requirement).

CPB. Commercial/Professional/Business Zone (CPB)

Intent/Explanation

A district to provide areas for commercial, professional office and retail sales and service operations that are typically characterized by outdoor display, storage, and/or sale of merchandise, by major repair of motor vehicles, and noise and traffic associated with such uses.

1. Commercial developments must provide sidewalks along all arterial and major collector streets.
2. Commercial buildings must have entrances fronting on sidewalks.
3. Commercial developments must provide sidewalks which connect entrances to any adjoining or adjacent commercial developments fronting on the same street, to parking areas, and to the street.

Density

No minimum lot size is required, provided the lot is served by a centralized wastewater treatment system capable of Level 2 treatment, as defined by DEQ.

Lot and Bulk Requirements

- 1) Buildings must be setback a minimum of 10 feet from all public rights-of-way and 8 feet from side and rear property lines. No side setbacks are required for buildings sharing a common wall. Corner lot setback - Buildings must be setback a minimum of 10 feet from all public right-of-ways on both of the sides facing streets.
- 2) Maximum building height is 40 feet (agricultural structures and religious facilities are exempt from height requirement).

IU. Industrial Use Zone (IU)**Intent/Explanation**

The intent is to provide areas for industrial uses and service uses that typically do not create significant objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the lot lines. It is also intended that the encroachment of non-industrial uses within the district be prevented other than those listed herein.

Density

A minimum of 5 acres is required, unless the lot is served by, at a minimum, a Level 2 wastewater treatment as defined by DEQ.

Lot and Bulk Requirements

- 1) Buildings must be setback a minimum of 20 feet from all public rights-of-way and 8 feet from side and rear property lines. Corner lot setback - Buildings must be setback a minimum of 20 feet from all public right-of-ways on both of the sides facing streets.
- 2) Maximum building height is 50 feet permitted, conditional use permit required for structures higher than 50 feet.

USA. Urban Standards Area

Intent/Explanation

The intent is to ensure that the city or town can grow efficiently, that there is adequate infrastructure and services in place to efficiently service future urban growth, and to protect quality of life for current and future residents of the area.

1. A new subdivision within the Urban Service Area must be designed and constructed to be connected to or connectable to city water and sewer services and must meet the requirements of the current version of the *City of Helena Engineering Standards* for:
 - a. water systems;
 - b. sewer systems;
 - c. right-of-ways and roadways, including sidewalks and trails. Right-of-ways for roadways, including sidewalks and trails, must be established immediately and meet city standards. If the development is not within 500 feet or less or not annexing into the city immediately then the developer may delay meeting city standards for roadways, including sidewalks and trails, until 50% of the development's lots or units are built. (Note: The County may waive the 50% requirement if financial guarantees for all improvements are provided.);
 - d. fire protection infrastructure;
 - e. stormwater facilities;
 - f. utilities;
 - g. building codes;
 - h. parks; and
 - i. setbacks.
2. A new development within the Urban Service Area must comply with applicable city zoning, including building setbacks and height requirements, and subdivision regulations. For example, commercial development in the USA needs to meet applicable city commercial zoning requirements.
3. A new development located 500 feet or less from a centralized or city wastewater treatment system or water system must petition the system operator for connection, and if a connection is granted, the development must be connected to the system with DEQ review and approval. If the system operator refuses to permit connection to the system, then the property owner or designee may request a variance under these regulations.
4. A new development located more than 500 feet from available city water and sewer services may utilize either an individual onsite wastewater treatment system that provides Level II treatment or a centralized sewer system that provides Level II treatment.
5. A new development having a centralized water system, or sewer system, or both must be designed and constructed to meet the requirements of the current version of the *City of Helena Engineering Standards* and be connectable to city

water and sewer services. Whenever physically feasible, centralized water systems must be looped. Centralized water or sewer systems must be operated by the city of Helena unless the City refuses to operate the system.

6. For a development not using a centralized or public water supply and sewer system, lots must be restricted to require owners to either abide by county approved building envelopes that would not preclude future subdivision of that lot to not less than four units per acre, or waive the right to further development of that lot in the future.

7. A non-conforming lot, whether developed or undeveloped, may install, maintain, or repair an individual wastewater treatment system unless the lot is within 500 feet of City of Helena sewer services or a centralized wastewater treatment system that provides Level II treatment. The following standards apply:

- a. An individual wastewater treatment system on a non-conforming lot must provide at least Level II treatment.
- b. If the lot is located within 500 feet of city sewer services or a centralized wastewater treatment system, the property owner or designee must petition the system operator for connection, and, if a connection is granted, the lot must be connected to the system with DEQ review and approval. If the system operator refuses to permit connection to the system, then the property owner or designee may request a variance under these regulations.

8. Lots must be restricted to waive the right to protest municipal annexation, connection to public sewer and water, and the creation of special improvements districts and rural improvements districts.

9. Unless neighborhood commercial areas are designated in a neighborhood plan and any new commercial development is in accordance with that plan, commercial development must be clustered around the intersections of arterial or major collector streets or roads in a compact commercial district with adequate provisions to facilitate pedestrian traffic throughout the district. The boundary of the commercial district should be set at a street or road 660 - 800 feet from the arterial or major collector intersection.